

REMARKS

The current patent application has been reviewed in light of the Office Action, dated January 27th, 2005, in which: Claims 12 and 13 were objected to under 37 C.F.R. §1.75(c) as being in improper form for having multiple dependant claims, claims 27, 28, 29 were objected to because of informalities, claim 30 was objected to because of informalities, claims 30-45 were rejected under 35 U.S.C. §112 second paragraph, as lacking antecedent basis, claims 28, 30, 47 and 49 were rejected under 35 U.S.C. §101 as claiming the same invention as claims 27, 29, 46, and 48, and claims 1-86 were rejected under 35 U.S.C. §102(b) as being anticipated by Davis, U.S. Patent No. 5,825,879 (hereinafter "Davis").

Claims 1-86 have been canceled. New claims 87-178 have been added. Upon review, Applicant cancelled claims 1-86 and submitted claims 87-178 in order to broaden all of the independent claims. The new independent claims are broader than the cancelled claims. Applicant respectfully submits that the new claims are submitted without prejudice or disclaimer. The submission of the new claims does not create any prosecution history estoppel. Further, Applicant respectfully submits that the above referenced new claims are in condition for allowance.

Claim Objections:

The Examiner objected to claims 12 and 13 under 37 CFR 1.75(c) as being in improper form. Claims 12 and 13 were dependant on claims 9-11 which were further dependant upon claims 1 and 2. Applicant has canceled claims 12 and 13 and submitted new claims (current claims 100 and 101) correcting these minor informalities. Applicant respectfully submits that the current amendments are made without prejudice or disclaimer and do not create any prosecution history estoppel. In particular, Applicant submits that claims 100 and 101 are broader than the prior claims 12 and 13. Applicant respectfully requests that the Examiner withdraw his objections. Applicant respectfully submits that the new claims 100 and 101 are in condition for allowance.

Claims 27, 28, and 29 were objected to because the Examiner assumed that the phrase "digital data *double* using" in the formerly amended claims 27, 28, and 29 and the phrase "digital data *double*" in claim 29 contained errors. The Examiner believed this should be the phrase "digital data using" in

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claims 27, 28, and 29 and the phrase "digital data" in claim 29. Claims 27 and 29 have been cancelled and new claims 117 and 119 have been submitted correcting these minor editorial errors. Claim 28 is cancelled. Applicant respectfully submits that the current amendments are made without prejudice or disclaimer. Further, Applicant submits that claims 117 and 119 do not alter the scope of the previously submitted claims 27 and 29 in any way and do not create any prosecution history estoppel. Applicant respectfully requests that the Examiner withdraw his objections. Applicant respectfully submits that 117 and 119 are in condition for allowance.

The Examiner objected to Claim 30 because of minor informalities. For discussion of this objection please see below.

Claim Rejections:

Examiner rejected Claim 30-45 under 35 U.S.C. §112, second paragraph, for insufficient antecedent basis. For a discussion of this rejection please see below.

The Examiner rejected claims 28, 30, 31-45, 47, 49 and 50-64 under 35 U.S.C §101 for statutory type double patenting of the same invention. Applicant respectfully submits that cancellation of claims 28, 30, 47 and 49 and the submission of new claims 117-120 and 136-139 specifically address the Examiner's concerns. Applicant respectfully submits that the current amendments are made without prejudice or disclaimer and do not create any prosecution history estoppel. Additionally, no claim scope is surrendered by the canceling of claims 28, 30, 47 and 49. This subject matter is covered by new claims 117-120 and 136-139. Therefore, Applicant respectfully requests that the Examiner withdraw his rejections. Applicant respectfully submits that new claims 117-120 and 136-139 are in condition for allowance.

Cancellation of claim 30 above renders moot the Examiner's objections to claim 30 for minor informalities. Likewise, the Examiner's rejections of claims 30-45 under 35 U.S.C. §112, second paragraph are too, rendered moot. Applicant respectfully requests that the Examiner withdraw his objections and rejections of claims 30-45.

Claims 1-86 were rejected under 35 U.S.C. §102(b) as being anticipated by Davis, U.S. Patent No. 5,825,879 (hereinafter "Davis"). These rejections are respectfully traversed.

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We begin with claims 1 and 14, the subject matter of which is covered in new claims 88 and 103. Applicant respectfully submits that Davis does not disclose all of the elements of claims 88 and 103. For example, Davis at least does not disclose "using an unchangeable key in a device to produce changeable-unchangeable keys double re-encrypted digital data." Applicant respectfully requests that the Examiner withdraw his rejections of claims 1 and 14 now claims 88 and 103. Applicant further submits that claims 88 and 103 are in condition for allowance.

The Examiner rejected Applicant's claims 2-13, 15-26, 27, 29, 31-46, 48 and 50-64, the subject matter of which is covered in new claims 89-101, 104-116, 117-118, 119-120, 121-137, 138-139 and 140-154. However, Applicant respectfully asserts that these claims distinguish from Davis on at least the same or similar basis as Claims 88 and 103. Therefore, Applicant respectfully requests that Examiner withdraw rejection of claims 2-13, 15-26, 27, 29, 31-46, 48 and 50-64, now claims, 89-101, 104-116, 117-118, 119-120, 121-137, 138-139 and 140-154. Applicant further submits that claims 89-101, 104-116, 117-118, 119-120, 121-137, 138-139 and 140-154 are in condition for allowance.

Applicant respectfully submits that Davis does not disclose all of the elements of claims 65 and 76, the subject matter of which is covered in new claims 156 and 168. For example, Davis at least does not disclose "encrypting said digital data, determined to be protected, using an unchangeable key in a device to produce unchangeable key encrypted digital data." Applicant respectfully requests that the Examiner withdraw his rejections of claims 65 and 76, now claims 156 and 168. Applicant further submits that claims 156 and 168 are in condition for allowance.

Additionally, the Examiner rejected claims 66-75 and 77-86, the subject matter of which is covered in new claims 157-166 and 169-178. However, these claims distinguish from Davis on at least the same or similar basis as claims 156 and 168. Therefore, Applicant respectfully requests that the Examiner withdraw his rejections of claims 66-75 and 77-86, now claims 157-166 and 169-178. Applicant further submits that claims 157-166 and 169-178 are in condition for allowance.

Applicant respectfully submits that the newly submitted claims 87, 89, 91, 92, 95-96, 117, 119, 121, 122, 125-126, 129-130, 140-141, 144-145, 148-149 and 155, 157-158 more explicitly differentiate from means plus function claims than did the cancelled claims 1-4, 7-8, 27, 29, 31, 32, 35, 36, 39-40, 50-51, 54-55, 58-59 and 65-67. Additionally, the new claims are broader than the cancelled claims.

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Applicant respectfully submits that the new claims are submitted without prejudice or disclaimer. The submission of the new claims does not create any prosecution history estoppel. Further, Applicant respectfully submits that the above referenced new claims are in condition for allowance.

Applicant canceled claim 5 and submitted new claim 93 correcting an inadvertent editorial error. Applicant respectfully submits that the submission of new claim 93 does not differ in scope from cancelled claim 5. Submission of new claim 93 is made without prejudice or disclaimer. Further, Applicant respectfully submits that the submission of the new claim does not create any prosecution history estoppel. Applicant respectfully submits that new claim 93 is in condition for allowance.

New claims 87-178 have been added. Support is found throughout the specification for the new claims and no new matter has been added. Specifically, new independent claims 87, 89, 102, 104, 117, 119, 136, 138, 155 and 167, which have not been examined by the Examiner, are believed to patentably distinguish over the cited documents. Applicant respectfully submits that the new claims are in condition for allowance.

Applicant respectfully does not acquiesce to any arguments made by the Examiner in the office action not addressed herein.

Applicant respectfully submits that upon preparing to file the current response, it was discovered that the filing fees were calculated improperly when the current application was filed. The current application was recently transferred to Berkeley Law and Technology Group, LLC (hereinafter BLTG) from Westerman, Hattori, Daniels & Adrian, LLP (hereinafter WHDA). In a telephone conference with John Kong, the attorney acting in the prosecution of this case for WHDA, John Kong averred to BLTG that the underpayment of fees was inadvertent. It is noted that the fee transmittal letter filed with the application provided authorization to charge any additional fees to WHDA's deposit account. In addition to current amounts due, enclosed is authorization to cover the underpayment of fees in the original filing.

Any amounts due may be charged to deposit account number 50-3130.

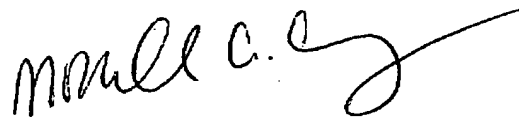
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CONCLUSION

In view of the foregoing, it is respectfully asserted that all of the claims pending in the current patent application as amended are in condition for allowance. If the Examiner has any questions, he is invited to contact the undersigned at (503) 640-6475. Reconsideration of the current patent application and early allowance of all the claims is respectfully requested.

Respectfully submitted,



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Dated:

5/27/05

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